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EXAMINER
CHOKSHI, PINKAL R

ART UNIT	PAPER NUMBER
2425	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/578,639	GUTTA ET AL.
Office Action Summary	Examiner	Art Unit	
	PINKAL CHOKSHI	2425	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *27 January 2009*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-8 and 10-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-8 and 10-20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some *   c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/2009 has been entered.

Response to Arguments

2.   Applicant's arguments filed 1/13/2009 with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, the well-known in the art statement applied to claim 14 is taken to be admitted prior art due to applicant's failure to traverse Examiner's assertion of official notice. See the new rejection below.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 20 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another

statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. Limitation such as "receiving a data stream having commercials therein" does not have a statutory process as mentioned above.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   **Claims 1-8, 10-14, and 18-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,146,627 to Ismail (hereafter referenced as Ismail) in view of US Patent to Mao (hereafter referenced as Mao) and US PG Pub 2004/0172650 to Hawkins (hereafter referenced as Hawkins).

Regarding **claim 1,** "a method for obtaining information to augment commercials in a data stream" reads on the STB that delivers targeted ads to the user (abstract) disclosed by Ismail and represented in Fig. 1.

As to "said method comprising the steps of: receiving a data stream having commercials therein" Ismail discloses (col.41, lines 1-3; col.43, lines 42-44) that the receiver receives a stream that includes advertisements as represented in Fig. 44 (element 850).

As to "obtaining, at a user site, preference information from at least one user via a user interface" Ismail discloses (col.3, lines 50-59) that the user's preference is determined based on viewing history of the user.

As to "detecting the commercials in said data stream and extracting, at said user site, descriptive information from the detected commercials in the data stream" Ismail discloses (col.41, lines 1-9) that the preference agent in the receiver detects the meta-data contained in each advertisement content streaming within the broadcast signal.

As to "determining, at said user site for each of the detected commercials, whether the extracted descriptive information corresponds with the preference information" Ismail discloses (col.22, lines 1-9) that the program selection device displays advertisements when a user's profile matches the profile of the advertisements.

Ismail meets all the limitations of the claim except "responsive to the determining step, locating information from an external source via a computer network regarding at least one of the commercials whose extracted descriptive information corresponds with the preference information." However, Mao discloses (col.4, lines 40-48; col.5, lines 6-10) that based on the commercial

received in STB, STB displays a web link, which provides more information about the product, related to the commercial, where STB receives this information using Internet. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Ismail's system by providing more information related to the commercial using computer network as taught by Mao so user can get more information related to the product in a quick response time (col.2, line 62).

Combination of Ismail and Mao meets all the limitations of the claim except "user's preference information is submitted via a user interface." However, Hawkins discloses (¶0052 and ¶0053) that the user's preference information is submitted manually by user. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to manually provide user's preference information as taught by Hawkins in order to enable delivery of accurately targeted ads that keep the viewer's attention by providing accurate information of user's like and dislike (¶0012).

Regarding **claim 2,** "the method wherein: the external source comprises at least one server" Mao discloses (col.6, lines 48-51) that the web page addresses related to commercials are communicated to STB using network server via Internet as represented in Fig. 1 (element 47). In addition, same motivation is used as to reject claim 1.

Regarding **claim 3,** "the method wherein: the data stream comprises at least one video program" Ismail discloses (col.6, lines 35-37) that the signals transmitted to receiver contains audio/video information.

Regarding **claim 4,** "the method wherein: the data stream comprises at least one audio program" Ismail discloses (col.6, lines 35-37) that the signals transmitted to receiver contains audio/video information.

Regarding **claim 5,** "the method further comprises the step of: displaying the located information to the at least one user on a display device" Mao discloses (col.4, lines 40-47) that the web page information related to the commercial is displayed on the monitor. In addition, same motivation is used as to reject claim 1.

Regarding **claim 6,** "the method further comprises the step of: displaying a link to the located information to the at least one user on a display device" Mao discloses (col.4, lines 40-44) that the web site link, related to commercial, is displayed on the monitor. In addition, same motivation is used as to reject claim 1.

Regarding **claim 7,** "the method further comprises the step of: storing the located information on a storage device for subsequent retrieval by the at least

one user" Mao discloses (col.4, lines 40-47) that the device stores web page information. In addition, same motivation is used as to reject claim 1.

Regarding **claim 8,** "the method wherein: the located information comprises information regarding a product or service advertised in the at least one of the commercials whose extracted descriptive information corresponds with the preference information" Mao discloses (col.4, lines 40-47) that the Toyota web page displays information about the Toyota commercial. In addition, same motivation is used as to reject claim 1.

Regarding **claim 10**, "the method wherein: the obtaining preference information step comprises obtaining a user input indicating an amount of information that is desired to be obtained from the external source for the at least one of the commercials whose extracted descriptive information corresponds with the preference information" Hawkins discloses (¶0048) that while inputting user's preference by user, ad category describes the advertised product in detail. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to provide detail info on advertisements as taught by Hawkins in order to provide correct advertisements to target audiences so a viewer does not have to search the advertisement contents throughout television channels.

Regarding **claim 11,** "the method wherein: the obtaining preference
information step comprises obtaining information identifying at least one category
of commercials" Hawkins discloses (¶0048) that the data structures, such as
advertisement category, is used to profile viewer information. Therefore, it would
have been obvious to one of the ordinary skills in the art at the time of the
invention to categorized advertisements as taught by Hawkins in order to provide
correct advertisements to target audiences so a viewer does not have to search
the advertisement contents throughout television channels.

Regarding **claim 12,** "the method wherein: the obtaining preference
information step comprises obtaining information identifying at least one music
track" Ismail discloses (col.20, lines 46-49) that the viewer's preference
information includes musical preference.

Regarding **claim 13,** "the method wherein: the obtaining preference
information step comprises obtaining information identifying at least one
performer" Ismail discloses (col.6, lines 28-31) that the user specifies program by
actor.

Regarding **claim 14,** "the method wherein: the obtaining preference
information step comprises the steps of: identifying at least one sample
commercial by the at least one user via the user interface and extracting

descriptive information from the at least one sample commercial" Ismail discloses

(col.3, lines 15-20) the method to analyze sample viewing habits of the user.

However, the examiner takes official notice that it was well known in the art at the

time of the invention to retrieve data based on query-by example. Therefore, it

would have been obvious to one of ordinary skills in the art at the time of the

invention to use sample of commercial in user preference to Ismail's system in

order to provide correct advertisements related to target audiences based on

their sample ads.

Regarding **claim 18,** "an apparatus for obtaining information to augment

commercials in a data stream" reads on the STB that delivers targeted ads to the

user (abstract) disclosed by Ismail and represented in Fig. 1.

As to "said apparatus comprising: means for receiving a data stream

containing commercials" Ismail discloses (col.41, lines 1-3; col.43, lines 42-44)

that the receiver receives a stream that includes advertisements as represented

in Fig. 44 (element 850).

As to "means for obtaining preference information from at least one user"

Ismail discloses (col.3, lines 50-59) that the user's preference is determined

based on viewing history of the user.

As to "means for detecting said commercials in the data steam, and for

extracting descriptive information from the detected commercials in the data

stream" Ismail discloses (col.41, lines 1-9) that the preference agent in the

receiver detects the meta-data contained in each advertisement content

streaming within the broadcast signal.

As to "means for determining, for each of the detected commercials,

whether the extracted descriptive information corresponds with the preference

information." Ismail discloses (col.22, lines 1-9) that the program selection

device displays advertisements when a user's profile matches the profile of the

advertisements.

Ismail meets all the limitations of the claim except "means, responsive to

the determining step, for locating information from an external source via a

computer network regarding at least one of the commercials whose extracted

descriptive information corresponds with the preference information." However,

Mao discloses (col.4, lines 40-48; col.5, lines 6-10) that based on the commercial

received in STB, STB displays a web link, which provides more information about

the product, related to the commercial, where STB receives this information

using Internet. Therefore, it would have been obvious to one of the ordinary

skills in the art at the time of the invention to modify Ismail's system by providing

more information related to the commercial using computer network as taught by

Mao so user can get more information related to the product in a quick response

time (col.2, line 62).

Combination of Ismail and Mao meets all the limitations of the claim

except "user's preference information is received from user." However, Hawkins

discloses (¶0052 and ¶0053) that the user's preference information is submitted

manually by user. Therefore, it would have been obvious to one of the ordinary

skills in the art at the time of the invention to manually provide user's preference

information as taught by Hawkins in order to enable delivery of accurately

targeted ads that keep the viewer's attention by providing accurate information of

user's like and dislike (¶0012).

Regarding **claim 19,** "the apparatus wherein: the external source

comprises at least one server" Mao discloses (col.6, lines 48-51) that the web

page addresses related to commercials are communicated to STB using network

server via Internet as represented in Fig. 1 (element 47). In addition, same

motivation is used as to reject claim 1.

Regarding **claim 20,** "a method for obtaining information to augment

commercials in a data stream" reads on the STB that delivers targeted ads to the

user (abstract) disclosed by Ismail and represented in Fig. 1.

As to "the method comprising: receiving a data stream having

commercials therein" Ismail discloses (col.41, lines 1-3; col.43, lines 42-44) that

the receiver receives a stream that includes advertisements as represented in

Fig. 44 (element 850).

As to "obtaining preference information from at least one user via a user

interface" Ismail discloses (col.3, lines 50-59) that the user's preference is

determined based on viewing history of the user.

As to "detecting the commercials in said data stream and extracting, at said user site, descriptive information from detected commercials in the data stream" Ismail discloses (col.41, lines 1-9) that the preference agent in the receiver detects the meta-data contained in each advertisement content streaming within the broadcast signal.

As to "determining, for each of the detected commercials, whether the extracted descriptive information corresponds with the preference information" Ismail discloses (col.22, lines 1-9) that the program selection device displays advertisements when a user's profile matches the profile of the advertisements.

Ismail meets all the limitations of the claim except "responsive to the determining step, locating information from an external source via a computer network regarding at least one of the commercials whose extracted descriptive information corresponds with the preference information." However, Mao discloses (col.4, lines 40-48; col.5, lines 6-10) that based on the commercial received in STB, STB displays a web link, which provides more information about the product, related to the commercial, where STB receives this information using Internet. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Ismail's system by providing more information related to the commercial using computer network as taught by Mao so user can get more information related to the product in a quick response time (col.2, line 62).

Combination of Ismail and Mao meets all the limitations of the claim except "user's preference information is submitted via a user interface." However, Hawkins discloses (¶0052 and ¶0053) that the user's preference information is submitted manually by user. As to "a program storage device tangibly embodying a program of instructions executable by a machine to perform a method" Hawkins discloses (claim 37) that the software instruction is executed by the processor of the device. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to manually provide user's preference information and store computer program instruction on the storage medium as taught by Hawkins in order to enable delivery of accurately targeted ads that keep the viewer's attention by providing accurate information of user's like and dislike (¶0012).

6.   **Claim 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ismail in view of Mao and Hawkins as applied to claim 1 above and further in view of US Patent 6,100,941 to Dimitrova et al (hereafter referenced as Dimitrova).

Regarding **claim 15,** "the method wherein: the obtaining preference information step comprises obtaining at least one keyword from the at least one user via the user interface" Hawkins discloses (¶0018) that the key answers are provided on the form by the user that generates a viewer profile that describes user's preference. In addition, same motivation is used as to reject claim 1.

Combination of Ismail, Mao, and Hawkins meets all the limitations of the claim except "the extracting descriptive information step comprises extracting text from the commercials." However, Dimitrova discloses (col.18, lines 15-28) that the signature of signal (commercial) is extracted by using text information from the closed captioning information. As to "the extracted descriptive information corresponds with the preference information when the extracted text corresponds with the at least one keyword" Dimitrova discloses (col.18, lines 29-30) that the text information extracted from the signal is compared with the stored information for the commercials. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to match the keyword with advertisement information to generate a targeted advertisement as taught by Dimitrova in order to easily detect a commercial of user's choice category.

Regarding **claim 16,** "the method wherein: the extracting text from the commercials comprises extracting text from closed captioned data of the commercials" Dimitrova discloses (col.2, lines 41-44) that the system produces text by processing data stream through a closed captioning processor. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to produce text from closed caption data as taught by Dimitrova in order to identify a portion of commercial by comparing with closed captioned text data to produce accurate commercial for viewers.

Regarding **claim 17,** "the method wherein: the extracting text from the commercials comprises converting an audio portion of the commercials to text" Dimitrova discloses (col.18, lines 19-25) that the audio processor converts the sound into text of a commercial. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to produce text from closed caption data as taught by Dimitrova in order to identify a portion of commercial by comparing with closed captioned text data to produce accurate commercial for viewers.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425